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EXAMINER

NGUYEN, TRINH T

ART UNIT PAPER NUMBER

3644

DATE MAILED: 04/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/640,982

Applicant(s)

SENCKOWSKI, JOHN F.

Examiner

Trinh T Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/13/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Applicant's claim for domestic priority (i.e., provisional application 60/403,383) under 35 U.S.C. 119(e) is acknowledged.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "28", "49", and "50". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
3. The drawings are objected to because there is no showing of Figure C as stated in line 5 of page 14. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

4. Claims 2, 9, and 19 are objected to because of the following informalities: the phrase "triggering system" should be change to --triggering mechanism-- in order to be consistent. Appropriate correction is required.
5. Claims 5, 6, 15-17, and 19 are objected to because of the following informalities: the phrase "said base support" should be change to --said base-- in order to be consistent. Appropriate correction is required.

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6. Claims 1 and 8 are objected to because of the following informalities: the phrase "said triggering mechanism, and subsequently said signaling mechanism, are activated when said fishing line is pulled." should be rewritten as - -said triggering mechanism and said signaling mechanism are activated when said fishing line is pulled.--.

7. Claim 20 is objected to because of the following informalities: in line 13, a semicolon should be replaced with a period. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 5, 15, and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 5, 15, and 19: the phrases "as shown in FIG. 10" and "as shown in FIG. 3" are unclear and confusing because it is not understood what is being claimed.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-5, 7-16, 18, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Shaffer et al. (US 5,570,532).

For claims 1 and 8, Shaffer et al. teach an apparatus for fishing, utilizing a fishing rod and line, comprising: (a) a plurality of support members (22, 24, 16), wherein the support members comprise an upper frame of the apparatus; (b) a base (28), wherein the base comprises a lower frame of the apparatus and wherein at least one support member is attached to the base; (c) a triggering mechanism (38), wherein the triggering mechanism is attached to a support member; (d) a rod holder (14), wherein the rod holder is attached to a support member; and (e) a signaling mechanism (42, 56, 58, 54, also lines 60-67 of col. 3 and lines 1-65 of col. 4), wherein the signaling mechanism is attached to a support member, wherein the upper frame connects to the lower frame and the rod holder comprises an opening to support the fishing rod, and wherein the fishing line is threaded through the triggering mechanism, the triggering mechanism and the signaling mechanism are activated when the fishing line is pulled.

For claims 2 and 9, Shaffer et al. further teach the triggering mechanism, the rod holder and the signaling mechanism are housed in one support member (22, 16, 24), wherein the apparatus comprises a support member (22, 16, 24) and a base (28), which may be separated for storage.

For claims 3, 10, 11 and 14, Shaffer et al. further teach the signaling mechanism comprises a visual strike indicator, the visual strike indicator is a light intensity strobe light, and a power source (lines 60-67 of col. 3 and lines 1-65 of col. 4).

For claims 4, 12 and 13, Shaffer et al. further teach the signaling mechanism comprises an audible strike indicator of the type that is easily heard over 150 feet away, and a power source (lines 60-67 of col. 3 and lines 1-65 of col. 4).

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For claims 7 and 18, Shaffer et al. further teach the signaling mechanism comprises: (a) a triggering arm (42); (b) a trigger/stop bracket (56); and (c) a proximity switch (54), wherein the proximity switch closes a circuit when the triggering arm advances to the trigger/stop bracket.

For claim 16, Shaffer et al. further teach the base (28) comprises wind drag screw (30).

Note that the method steps as claimed in claim 20 are inherently performed within Shaffer et al.'s fishing apparatus wherein the fishing apparatus of Shaffer et al. comprising the steps of: (a) connecting a base support (28) to at least one support member (22, 24, 16), wherein the base support comprises a lower frame and the support members comprise an upper frame; (b) setting the fishing pole (12) in a rod holder (14), the rod holder being housed in one of said support members; (c) threading the fishing line through a fishing line holder (38) of a triggering mechanism (38, 40, 42, 56, 58, 54), the triggering mechanism being mounted on one of the support members; (d) setting the bail on the fishing rod to the open position; (e) activating of the triggering mechanism and the signaling mechanism when the a fish pulls on said line.

### ***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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13. Claims 6, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer et al. (US 5,570,532) in view of Miller (US 5,218,781).

As described above, Shaffer et al. teach most of the claimed invention except for indicating that the base support comprises ballast.

However, Miller teaches the use of ballast (47, 48 in Figure 10 and lines 40-69 of col. 7) in a crab pot structure in order to improve its stability under such environmental conditions (like wind and/or strong current flows/tidal). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the base support of Shaffer et al. so as to include the use of a ballast, in a similar manner as taught in Miller, since to do so would provide a weighting means to stabilize the overall fishing apparatus.

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: US 6,389,734 teaches an apparatus for fishing wherein the apparatus is a signaling fishing rod having a base, supporting means, and a light signaling device; US 5,050,333 teaches an apparatus for fishing wherein the apparatus is a fishing rig having a base, a support, and a line responsive triggering mechanism; and US 5,020,263 teaches an apparatus for fishing wherein the apparatus is a signaling fishing tip-up unit having a base, support members, and movable trigger.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trinh T Nguyen whose telephone number is (703) 306-9082. The examiner can normally be reached on M-F (9:30 A.M to 6:00 P.M).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan can be reached on (703) 306-4159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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04/23/04